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8 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 EMILIO JOSE VELASCO-MALVAEZ,
13 aka "Carlos Guillermo Rodriguez Velasco,"
14 aka "Emilio Valasco,"

15 Defendant.

Case No. 2:23-mj-01061-
DJA

**ORDER to Extend
Deadlines to Conduct
Preliminary Hearing and File
Indictment (First Request)**

16 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.
17 Frierson, United States Attorney, and Justin Washburne, Assistant United States
18 Attorney, counsel for the United States of America, and Jacquelyn N. Witt, Assistant
19 Federal Public Defender, counsel for Defendant EMILIO JOSE VELASCO-
20 MALVAEZ that the Court schedule the preliminary hearing in this case for no
21 earlier than 60 days from the date of the filing of this stipulation. This request
22 requires that the Court extend two deadlines: (1) that a preliminary hearing be
23 conducted within 14 days of a detained defendant's initial appearance, *see* Fed. R.
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1 Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of
2 a defendant's arrest, *see* 18 U.S.C. § 3161(b).

3 This stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition
5 program for immigration cases, authorized by the Attorney General pursuant to the
6 PROTECT ACT of 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1)
8 reduce the number of hearings required in order to dispose of a criminal case; (2)
9 avoid having more cases added to the court's trial calendar, while still discharging
10 the government's duty to prosecute federal crimes; (3) reduce the amount of time
11 between complaint and sentencing; and (4) avoid adding significant time to the
12 grand jury calendar to seek indictments in immigration cases, which in turn reduces
13 court costs.

14 3. The government has made a plea offer in this case that requires
15 defendant to waive specific rights and hearings in exchange for "fast-track"
16 downward departure under USSG § 5K3.1. This offer will be withdrawn if it is not
17 timely accepted before this matter is indicted and before a preliminary hearing is
18 held.

19 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold
20 the preliminary hearing within a reasonable time, but no later than 14 days after
21 the initial appearance if the defendant is in custody"

22 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon
23 a showing of good cause—taking into account the public interest in the prompt
24

1 disposition of criminal cases—a magistrate judge may extend the time limits in Rule
2 5.1(c) one or more times”

3 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
4 information or indictment charging an individual with the commission of an offense
5 shall be filed within thirty days from the date on which such individual was arrested
6 or served with a summons in connection with such charges.”

7 7. Defendant needs additional time to review the discovery and
8 investigate potential defenses to make an informed decision as to how to proceed,
9 including whether to accept the fast-track plea agreement.

10 8. Accordingly, the parties jointly request that the Court schedule the
11 preliminary hearing in this case no sooner than 60 days from today’s date.

12 9. Defendant is in custody and agrees to the extension of the 14-day
13 deadline imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c)
14 or 18 U.S.C. § 3161(b), provided that the information or indictment is filed on or
15 before the date ordered pursuant to this stipulation.

16 10. The parties agree to the extension of that deadline.

17 11. This extension supports the public interest in the prompt disposition of
18 criminal cases by permitting defendant to consider entering into a plea agreement
19 under the United States Attorney’s Office’s fast-track program for § 1326
20 defendants.

21 12. Accordingly, the additional time requested by this stipulation is
22 allowed under Federal Rule of Criminal Procedure 5.1(d).
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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 EMILIO JOSE VELASCO-MALVAEZ,
7 aka "Carlos Guillermo Rodriguez-Velasco,"
8 aka "Emilio Valasco,"

9 Defendant.

Case No. 2:23-mj-01061-DJA

**Order on
Stipulation to Extend
Deadlines to Conduct
Preliminary Hearing and File
Indictment**

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11 Based on the stipulation of counsel, good cause appearing, and the best
12 interest of justice being served; the time requested by this stipulation being
13 excludable in computing the time within which the defendant must be indicted and
14 the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §
15 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the
16 factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

17 IT IS THEREFORE ORDERED that the preliminary hearing currently
18 scheduled on December 27, 2023 at the hour of 4:00 p.m., be vacated and continued
19 March 4, 2024, at 4:00 p.m., Courtroom 3A.

20 15th
DATED this ____ day of December, 2023.



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23 DANIEL J. ALBREGTS
United States Magistrate Judge